

TO: Chairman and Members

DATE: November 18, 2010

**SUBJECT: AB 900 2007 Local Jail Construction Funding Program
Regulations Revision – Regular Rulemaking Process**

AGENDA ITEM: H

**ACTION: X
INFORMATION:**

RESOURCE PERSON: Charlene Aboytes

Summary:

The Corrections Standards Authority (CSA) staff is in the process of two regulation revision processes for the AB 900 Title 15 2007 Local Jail Construction Funding Program regulations. At the CSA Board's special session on November 3, 2010, staff presented an agenda item regarding emergency amendments to these regulations. This agenda item pertains to changes to the regulations that will be promulgated utilizing the regular rulemaking process and requests approval of: the draft revisions to the AB 900 2007 Local Jail Construction Funding Program regulations; approval to submit the revised regulations to the Office of Administrative Law (OAL); the appointment of a chairperson for the public hearing; and approval to begin the public comment process.

Background:

The AB 900 2007 Local Jail Construction Funding Program regulations were approved by the CSA Board at their September 2008 meeting. Subsequently, the regulations were submitted to the OAL and were effective in November 2008. As the AB 900 program and the lease-revenue bond financing process has been further defined, it has been necessary to periodically amend the regulations. The November 3 agenda item addressed emergency amendments to these regulations relative to the design-build process. Due to the critically time-sensitive nature of those changes, it was necessary to expedite the regulation process. This is being done via an Emergency/Operational Necessity filing pursuant to Penal Code Section 5058.3.

This agenda item addresses changes that are not time-sensitive to the AB 900 construction process. In this case, the lengthier regular rulemaking process is appropriate. Many of these changes may be considered non-substantive in nature. For instance, throughout the regulations, the term "financing" replaced the terms "funds" or "funding." Sometimes grammatical or other types of errors were corrected. One regulation was amended to reflect CSA Board action from the May 2010 meeting; changing the retention amount withheld from the proceeds of the lease-revenue financing from 20% to 5%. Finally, language was added to some regulations to clarify the requirements of the lease-revenue process. The regulations are attached for your review along with a document that contains the reasons for the amendments (Attachments A and B).

In this regular rulemaking process, with Board approval, the draft revised regulations will be submitted to the OAL, and then undergo a 45-day public comment period. After the public comment period a public hearing will be held in Sacramento chaired by a CSA Board member.

Staff anticipates presenting the draft regulations to the CSA Board at the March 2010 meeting. If there are no changes that result in an additional 15-day public comment period, staff will request permission to submit the regulations to the OAL for approval.

Recommendation/Action Needed:

Staff recommends:

1. The Board approve the draft regulations.
2. The Board direct staff to submit the draft regulations to the Office of Administrative Law.
3. The Board appoint CSA Board member as chair for the upcoming public hearing regarding the draft regulations.
4. The Board direct staff to begin the public comment process regarding the regulations.